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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/804,003	03/12/2001	Gideon Martin Reinier Weishut	NL 000147	8863

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P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

YIMAM, HARUN M

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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03/16/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/804,003

Applicant(s)

WEISHUT ET AL.

Examiner

Harun M. Yimam

Art Unit

2623

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 February 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-20.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

1. In response to applicants' argument (page 7, 5th paragraph) that Ali's specific teaching that the user assigns the rating to the category expressly contradicts the Office action's assertion that the category rating is determined from the sub-category ratings, the Examiner strongly disagrees. Applicants should first note that the claim limitation of claim 1 calls for "computing a rating of a category of the first level as a function of ratings of subordinate categories of the second level". Applicants should then note that Ali's teaching as a whole is what reads on the limitation above and not one or two paragraphs in Ali's disclosure on their own. True, as mentioned, Ali does teach that the user assigns a rating to a category. However, Ali also goes on to teach that the user's preferences, expressed as ratings, are necessary as input to the various predictive algorithms (paragraph 0031, lines 32-35) and that "the user teaches the system his or her preferences by assigning overall ratings to programs they are familiar with, and rating individual program elements, such as actors and genres. Ali then discloses that "subsequently, the preferences are fed to one or more predictive algorithms to assign ratings to programs that predict the likelihood of the user liking them" (paragraph 0036, lines 1-9). Therefore, the predictive algorithms (the system - the user profile module) assigning ratings to programs (compute ratings) based on user's ratings / user's preferences (paragraph 0031 - paragraph 0039) clearly teaches the claimed limitation "computing a rating of a category of the first level as a function of ratings of subordinate categories of the second level".

2. Applicants' argue (page 8, 1st paragraph) that the Office action fails to provide a prima facie case of obviousness. The Examiner attests that establishing the three basic criteria as follows has provided a prima facie case of obviousness:

First, the Examiner provided suggestions or motivation to combine the references as described above.

Secondly, one of ordinary skill in the art would reasonably expect the combination of Sciammarella and Ali to succeed because:

(i) both systems are directed categorical organization of television programs according to degree of importance to a user and
(ii) suggesting certain programs according user preference or generating a recommended program category according user preference is very common in the art. For example, an intelligent device/ set-top box studies a certain user's favorite programs by identifying the broadcast program when a user selects a channel at a certain time and by recognizing how long the user stayed tuned to said channel. Another way for the set-top box to receive user rating of broadcast programs thereby enabling the intelligent device to compute a rating of other programs according to prior received user ratings for certain programs. Therefore, taking the basic concept of rating a certain first category, and then rating a second category based on the first category as taught by the combined cited prior art is sufficient basis for reasonable expectation of success.

Thirdly, the Examiner indicated that the prior arts of record teach all of the claimed limitations.



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